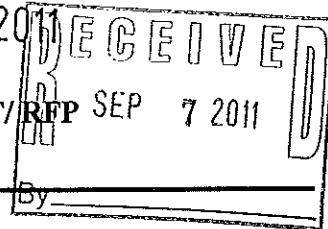


REC'D SEP 13 2011



# AGREEMENT / AMENDMENT / COOPERATIVE PROJECT / RFP ROUTE SLIP

- ☐ AGREEMENT TO PURCHASE SERVICES
 ☐ ENCUMBERED
- ☐ AMENDMENT TO AGREEMENT
 ☐ UNENCUMBERED
- ☐ STATE/UNIVERSITY COOPERATIVE PROJECT
- ☐ RFP

This route slip MUST accompany all agreements, amendments, cooperative projects for which the cost is \$25,000 or more, and all RFPs. Please submit 1 copy of the document to Dede with 1 blue slip which both DOE and DAFS will sign once approved. If under \$25,000, please submit one copy to DAFS with 1 blue slip for ART review/approval. The Commissioner will not approve any document unless accompanied by a completed route slip with proper signatures.

PREPARED BY/DATE:

COORDINATOR/DATE:

DATA MANAGEMENT TEAM/DATE:

(All signed off by Brian Snow for technology or data services)

TEAM LEADER/DATE:

DOE ART APPROVAL/DATE:

(ALL signed off by DOE/Susan)

DAFS FINANCE APPROVAL/DATE:

(ALL signed off by DAFS Account Managers - to check sufficiency of funds)

ADVANTAGE ME CT #:

(See workflow list for your Team's data entry person - if it's not you)

ADV ME APPROVAL/DATE:

(See workflow list for your Team's approver)

DEPUTY COMMISSIONER:

(Also signs agreement for Commissioner)

If your contract is going to span 2 fiscal years for encumbering purposes, you MUST attach the split encumbrance form to the contract itself.

PROVIDER'S NAME:

NCS Pearson

AGREEMENT AMOUNT:

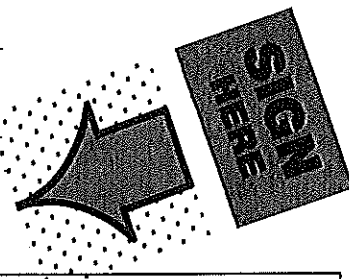
\$250,000

ACCOUNT CODE STRUCTURE: (If multiple lines of coding, add amount for each line)

FUND: 010 AGY: 001 UNIT: 0225 SUB UNIT: 09 OBJECT: S346 PROGRAM #: bms2025 AMOUNT: \_\_\_\_\_  
(report org) (approp unit)

FUND: \_\_\_\_\_ AGY: \_\_\_\_\_ UNIT: \_\_\_\_\_ SUB UNIT: \_\_\_\_\_ OBJECT: \_\_\_\_\_ PROGRAM #: \_\_\_\_\_ AMOUNT: \_\_\_\_\_

FUND: \_\_\_\_\_ AGY: \_\_\_\_\_ UNIT: \_\_\_\_\_ SUB UNIT: \_\_\_\_\_ OBJECT: \_\_\_\_\_ PROGRAM #: \_\_\_\_\_ AMOUNT: \_\_\_\_\_



STATE OF MAINE  
DEPARTMENT OF EDUCATION  
Agreement to Purchase Services

THIS AGREEMENT, made this 1st day of July, 2011, is by and between the State of Maine, Department of Education, hereinafter called "Department," and NCS Pearson, Inc., contracting through Pearson - School Systems, with offices located at 10911 White Rock Road, Suite 200, Rancho Cordova, CA 95670, telephone number 801-858-0073 hereinafter called "Provider", for the period of July 1, 2011 to June 30, 2014.

The AdvantageME Vendor/Customer number of the Provider is VC0000129076.

WITNESSETH, that for and in consideration of the payments and agreements hereinafter mentioned, to be made and performed by the Department, the Provider hereby agrees with the Department to furnish all qualified personnel, facilities, materials and services and in consultation with the Department, to perform the services, study or projects described in Rider A, and under the terms of this Agreement. The following riders are hereby incorporated into this Agreement and made part of it by reference:

Rider B-IT - Payment and Other Provisions  
Rider C - Exceptions to Rider B-IT  
Rider A - Specifications of Work to be Performed  
Rider D - Powerschool Licensed Product Agreement  
Rider G - Identification of Country in Which Contracted Work will be Performed

WITNESSETH, that this contract is consistent with Executive Order 17 FY 08/09 or a superseding Executive Order, and complies with its requirements.

IN WITNESS WHEREOF, the Department and the Provider, by their representatives duly authorized, have executed this agreement in \_\_\_\_\_ original copies.

DEPARTMENT OF EDUCATION

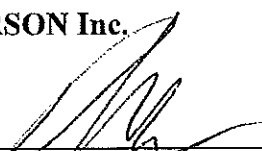
By:

  
Stephen L. Bowen, Commissioner

and

NCS PEARSON Inc.

By:

  
Doug Evans, Chief Financial Officer

Approved: \_\_\_\_\_  
Chair, State Purchases Review Committee  
BP54 (Rev 9/07) – (Rev Rider B-IT 7/15/09)

### AdvantageME ACCOUNT CODING

VC NUMBER	DOC TOTAL	FND	DEPT	UNIT		SUB UNIT		OBJ		JOB NO.	PROGRAM
VC0000129076	\$250,000.00	010	05A	0275		09		5346			DMS2075

[illegible]

RIDER A  
SPECIFICATIONS OF WORK TO BE PERFORMED

The purpose of this agreement is to provide Pearson Powerschool software licenses, annual maintenance and support, professional services, and hosting services to Maine School Districts. The specific quantity and nature of all licenses, maintenance and support, and professional services to be delivered by Provider shall be as agreed between Provider (Pearson) and the applicable school district.

This document establishes an umbrella contract under which product and services may be purchased from Pearson. Individual Delivery Orders (ordering documents) will be initiated by the State of Maine under this Master Agreement Contract for specific services. Examples of such Delivery Orders could include, but will not be limited to: (1) annual software license usage and hosting fees, (2) annual software support and maintenance fees, (3) new software install fees, (4) training, and (5) fixed price statement of work /change orders with fixed deliverables. This contract/master agreement may be used by other educational units within Maine, at their choice, with service terms and pricing applying to those units, unless modified by the individual agreement between Pearson and that unit.

Powerschool software shall be provided to school districts based on the following pricing tables. No retainage shall apply to this contract.

Small District Implementation <=400 Students \$26,100

- PowerSchool Implementation Services – Basic Setup
- PowerSchool Implementation Services – School Setup
- PowerSchool Test Start / Summer Production Implementation Services
- PowerSchool Initial Product Training (3 days on-site)
- 7 Days Regional Scheduler Prepare to Build and Build Workshops (2 people)

Medium District Implementation >400 <=1000 students \$37,450

- PowerSchool Implementation Services – Basic Setup
- PowerSchool Implementation Services – School Setup
- PowerSchool Test Start / Summer Production Implementation Services
- PowerSchool Initial Product Training (4 days on-site)
- 7 Days Regional Scheduler Prepare to Build and Build Workshops (3 people)
- Essential PowerSchool Product Education Bundle (Annual Subscription)
- PowerSchool Training Consultation (5 days On-site)

Large District Implementation >1000 students \$50,000

- PowerSchool Implementation Services – Basic Setup
- PowerSchool Implementation Services – School Setup
- PowerSchool Test Start / Summer Production Implementation Services
- PowerSchool Initial Product Training (4 days on-site)
- 7 Days Regional Scheduler Prepare to Build and Build Workshops (3 people)
- Essential PowerSchool Product Education Bundle (Annual Subscription)
- PowerSchool Training Consultation (6 days On-site)

Maine DOE paid, Annual recurring costs per student per district

Subscription, Maintenance and Support \$6.50  
Subscription, Maintenance and support w/Hosting \$7.50

Maine DOE Helpdesk Staff Training Certifications

PowerSchool Level I Certification – Initial Product Training (5 days): not to exceed \$4,500 per person  
PowerSchool Level II Certification – Advanced (10 days): not to exceed \$9,000 per person  
PowerSchool University (annual training conference) not to exceed \$4,500 per person  
\*travel to conform to Maine DOE employee travel policy

Payment for implementation of Powerschool software shall be made the following structure.

**Payment Milestones**

Milestone 1: Project Kick-off

The Milestone 1 payment will represent 25% of the total District implementation cost. This milestone represents the completion of the kick-off and initial planning meetings. The milestone will be considered completed upon Pearson providing:

- A *Project Workplan*, signed by the District and containing data conversion and training plans with timelines.

Milestone 2: Go Live

The Milestone 2 payment will represent 45% of the total District implementation cost. This milestone represents the delivery of activities as outlined in the *Project Workplan*, resulting in a production-ready Powerschool site. Milestone 2 will be considered complete for a given District upon:

- The DOE's receipt of a *Go-Live Acceptance Letter* signed by the district. The *Go-Live Acceptance Letter* will identify any outstanding implementation-related services (e.g, training or data services tasks) stated in the *Project Workplan*, but not completed, and
- All project Status Reports, listing any issues incurred during the project.

Milestone 3: Final Acceptance

This milestone payment will represent 30% of the total implementation cost. This milestone represents the completion of any outstanding items identified in the Go Live Acceptance letter. In the event of outstanding activities, such activity will be considered complete upon the scheduling of a firm future date, which is mutually acceptable by Pearson and the District. Product issues not related to implementation shall be addressed through the Pearson Master Software Support License Agreement. Milestone 3 will be considered complete for a given district upon:

- Receipt of a signed Acceptance Letter from the District. The signed Acceptance will indicate any mutually agreed services beyond this point.

School District and Student Counts:

The list of School Districts and student counts hosted and supported by Pearson will be developed annually. Student counts are adjusted twice a year. Annual subscription, maintenance and license, support and hosting fees shall be paid based on the most recent student count values to June 30th of the year. Subscription, license, support and hosting fees shall be paid only for School units which have signed the final Acceptance Letter and/or those which are active participating schools.

## **RIDER B-IT**

### **METHOD OF PAYMENT AND OTHER PROVISIONS**

1. **AGREEMENT AMOUNT** Estimated \$250,000.00 (Master Agreement)
2. **INVOICES AND PAYMENTS** The Department will pay the Provider as follows:

Per pricing terms documented in Rider A. No retainage shall apply to the contract.

Invoices for payment, submitted on forms approved by the Department, shall be submitted to the Agreement Administrator. Invoices shall contain sufficient detail to allow proper cost allocation and shall be accompanied by supporting documentation. No invoice will be processed for payment until approved by the Agreement Administrator. All invoices require the following:

- A. All invoices must include the Vendor Code number assigned when registering as a vendor with the State of Maine. This number appears on all Contracts and Purchase Orders and can be acquired from the agency contact.
- B. All invoices must include the vendor's Federal ID Number.
- C. All invoices must include either the Purchase Order number or the Contract number relating to the commodities/services provided.
- D. In cases where hourly rates of contracted resources are concerned, invoices must contain a copy or copies of time sheets associated with that invoice. Time sheets will need to be reviewed and approved by the State's contract administrator.

Payments are subject to the Provider's compliance with all items set forth in this Agreement. The Department will pay the Provider within thirty (30) days following the receipt of an approved invoice. The Department may withhold a Retainage for project-based services in the following manner:

- The allowable payment amount from each project milestone payment will be multiplied by ten (10) percent, giving the amount that will be withheld from payment. Ninety (90) percent of the allowable project milestone payment amount will be paid to the Provider.
- The Retainage will be held by the Department until the end of the warranty period.

The charges described in this Agreement are the only charges to be levied by the Provider for the products and services to be delivered by it. There are no other charges to be made by the Provider to the Department, unless they are performed in accordance with the provisions of Section 5, Changes in the Work. The Provider shall maintain documentation for all charges against the Department under this Agreement.

3. **INDEPENDENT CAPACITY** In the performance of this Agreement, the Provider shall act in the capacity of an independent contractor and not as an employee or agent of the State.

4. **AGREEMENT ADMINISTRATOR** The Agreement Administrator is the Department's representative for this Agreement. S/he is the single authority to act on behalf of the Department for this Agreement. S/he shall approve all invoices for payment. S/he shall make decisions on all claims of the Provider. The Provider shall address all contract correspondence and invoices to the Agreement Administrator. The following person is the Agreement Administrator for this Agreement:

Name: Jim Rier  
Title: Deputy Commissioner  
Address: State House Station 23, Cross Building 5<sup>th</sup> floor, Augusta, ME 04333-0023  
Telephone: 207-624-6794  
E-mail address: jim.rier@maine.gov

The following individual is designated as the Program Administrator for this Agreement and shall be responsible for oversight of the programmatic aspects of this Agreement. All project status reports, day to day operational issues and project program material and issues shall be directed to this individual.

Name: Brian Snow  
Title: Education Data Manager  
Address: State House Station 23, Cross Building 5<sup>th</sup> floor, Augusta, ME 04333-0023  
Telephone: 207-624-6840  
E-mail address: Brian.snow@maine.gov

5. **CHANGES IN THE WORK** The Department may order changes in the work, the Agreement Amount being adjusted accordingly. Any monetary adjustment or any substantive change in the work shall be in the form of an amendment signed by both parties and approved by the State Purchases Review Committee. Said amendment must be effective prior to the execution of the changed work.

6. **SUBCONTRACTORS** The Provider may not enter into any subcontract for the work to be performed under this Agreement without the express written consent of the Department. This provision shall not apply to contracts of employment between the Provider and its employees.

The Provider is solely responsible for the performance of work under this Agreement. The approval of the Department for the Provider to subcontract for work under this Agreement shall not relieve the Provider in any way of its responsibility for performance of the work.

All Subcontractors shall be bound by the terms and conditions set forth in this Agreement. The Provider shall give the State immediate notice in writing of any legal action or suit filed, and prompt notice of any claim made against the Provider by any Subcontractor, which may result in litigation related in any way to this Agreement, or which may affect the performance of duties under this Agreement. The Provider shall indemnify and hold harmless the Department from and against any such claim, loss, damage, or liability as set forth in Section 16, State held Harmless.



**7. SUBLETTING, ASSIGNMENT OR TRANSFER**

The Provider shall not sublet, sell, transfer, assign, or otherwise dispose of this Agreement, or any portion thereof, or of its right, title, or interest therein, without the written approval of the Department. Such approval shall not in any case relieve the Provider of its responsibility for performance of work under this Agreement.

**8. EQUAL EMPLOYMENT OPPORTUNITY**

During the performance of this Agreement, the Provider certifies as follows:

1. The Provider shall not discriminate against any employee or applicant for employment relating to this Agreement because of race, color, religious creed, sex, national origin, ancestry, age, physical or mental disability, or sexual orientation, unless related to a *bona fide* occupational qualification. The Provider shall take affirmative action to ensure that applicants are employed, and employees are treated during employment, without regard to their race, color, religion, sex, age, national origin, physical or mental disability, or sexual orientation.

Such action shall include but not be limited to the following: employment, upgrading, demotions, or transfers; recruitment or recruitment advertising; layoffs or terminations; rates of pay or other forms of compensation; and selection for training including apprenticeship. The Provider agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.

2. The Provider shall, in all solicitations or advertising for employees placed by, or on behalf of, the Provider, relating to this Agreement, state that all qualified applicants shall receive consideration for employment without regard to race, color, religious creed, sex, national origin, ancestry, age, physical or mental disability, or sexual orientation.

3. The Provider shall send to each labor union, or representative of the workers, with which it has a collective bargaining agreement, or other agreement or understanding, whereby it is furnished with labor for the performance of this Agreement, a notice to be provided by the contracting agency, advising the said labor union or workers' representative of the Provider's commitment under this section, and shall post copies of the notice in conspicuous places, available to employees and applicants for employment.

4. The Provider shall inform the contracting Department's Equal Employment Opportunity Coordinator of any discrimination complaints brought to an external regulatory body (Maine Human Rights Commission, EEOC, Office of Civil Rights, etc.) against itself by any individual, as well as any lawsuit regarding alleged discriminatory practice.

5. The Provider shall comply with all aspects of the Americans with Disabilities Act (ADA) in employment, and in the provision of service, to include accessibility and reasonable accommodations for employees and clients.

6. Contractors and Subcontractors with contracts in excess of \$50,000 shall also pursue in good faith affirmative action programs.

7. The Provider shall cause the foregoing provisions to be inserted in any subcontract for any work covered by this Agreement so that such provisions shall be binding upon each Subcontractor, provided that the foregoing provisions shall not apply to contracts or subcontracts for standard commercial supplies or raw materials.

9. **EMPLOYMENT AND PERSONNEL** The Provider shall not engage any person in the employ of any State Department or Agency in a position that would constitute a violation of 5 MRSA § 18 or 17 MRSA § 3104. The Provider shall not engage on a full-time, part-time, or any other basis, during the period of this Agreement, any personnel who are, or have been, at any time during the period of this Agreement, in the employ of any State Department or Agency, except regularly retired employees, without the written consent of the State Purchases Review Committee. Further, the Provider shall not engage on this project on a full-time, part-time, or any other basis, during the period of this Agreement, any retired employee of the Department, who has not been retired for at least one year, without the written consent of the State Purchases Review Committee. The Provider shall cause the foregoing provisions to be inserted in any subcontract for any work covered by this Agreement, so that such provisions shall be binding upon each Subcontractor, provided that the foregoing provisions shall not apply to contracts or subcontracts for standard commercial supplies or raw materials.

10. **STATE EMPLOYEES NOT TO BENEFIT** No individual employed by the State at the time this Agreement is executed, or any time thereafter, shall be admitted to any share or part of this Agreement, or to any benefit that might arise there from, directly or indirectly, that would constitute a violation of 5 MRSA § 18 or 17 MRSA § 3104. No other individual employed by the State at the time this Agreement is executed, or any time thereafter, shall be admitted to any share or part of this Agreement, or to any benefit that might arise there from, directly or indirectly, due to his employment by, or financial interest in, the Provider, or any affiliate of the Provider, without the written consent of the State Purchases Review Committee. The Provider shall cause the foregoing provisions to be inserted in any subcontract for any work covered by this Agreement so that such provisions shall be binding upon each Subcontractor, provided that the foregoing provisions shall not apply to contracts or subcontracts for standard commercial supplies or raw materials.

11. **NO SOLICITATION** The Provider certifies that it has not employed or contracted with any company or person, other than for assistance with the normal study and preparation of a proposal, to solicit or secure this Agreement, and that it has not paid, or agreed to pay, any company or person, other than a *bona fide* employee working solely for the Provider, any fee, commission, percentage, brokerage fee, gifts, or any other consideration, contingent upon, or resulting from, the award of this Agreement. For breach or violation of this provision, the Department shall have the right to terminate this Agreement without liability or, at its discretion, to otherwise recover the full amount of such fee, commission, percentage, brokerage fee, gift, or contingent fee.

12. **ACCOUNTING, RECORDS, AND AUDIT**

1. The Provider shall maintain all books, documents, payrolls, papers, accounting records, and other evidence pertaining to this Agreement, including interim reports and working papers, and make such materials available at its offices at all reasonable times during the period of this Agreement, and for a period of five (5) years following termination or expiration of the Agreement. If any litigation, claim or audit is started before the expiration of the 5-year period,

the records must be retained until all litigation, claims or audit findings involving the agreement have been resolved.

2. Unless the Department specifies in writing a shorter period of time, the Provider agrees to preserve and make available all documents and records pertaining to this Agreement for a period of five (5) years from the date of termination of this Agreement.
3. Records involving matters in litigation shall be kept for one year following the termination of litigation, including all appeals.
4. Authorized Federal and State representatives shall have access to, and the right to examine, all pertinent documents and records during the five-year post-Agreement period. During the five-year post-Agreement period, delivery of, and access to, all pertinent documents and records will be at no cost to the Department.
5. The Provider shall be liable for any State or Federal audit exceptions, if applicable, that arise out of any action, inaction, or negligence by the Provider. In the event of an audit exception for which the Provider is liable, the Provider shall have thirty (30) days to remedy that exception. If the Provider fails to remedy that exception within this time period, the Provider shall immediately return to the Department all payments made under this Agreement which have been disallowed in the audit exception.
6. Authorized State and Federal representatives shall at all reasonable times have the right to enter the premises, or such other places, where duties under this Agreement are being performed, to inspect, monitor, or otherwise evaluate, the work being performed. All inspections and evaluations shall be performed in such a manner that will not compromise the work unreasonably.
7. **ACCESS TO PUBLIC RECORDS** As a condition of accepting a contract for services under this section, a contractor must agree to treat all records, other than proprietary information, relating to personal services work performed under the contract as public records under the freedom of access laws to the same extent as if the work were performed directly by the department or agency. For the purposes of this subsection, "proprietary information" means information that is a trade secret or commercial or financial information, the disclosure of which would impair the competitive position of the contractor and would make available information not otherwise publicly available. Information relating to wages and benefits of the employees performing the personal services work under the contract and information concerning employee and contract oversight and accountability procedures and systems are not proprietary information. The Provider shall maintain all books, documents, payrolls, papers, accounting records and other evidence pertaining to this Agreement and make such materials available at its offices at all reasonable times during the period of this Agreement and for such subsequent period as specified under Maine Uniform Accounting and Auditing Practices for Community Agencies (MAAP) rules. The Provider shall allow inspection of pertinent documents by the Department or any authorized representative of the State of Maine or Federal Government, and shall furnish copies thereof, if requested. This subsection applies to contracts, contract extensions and contract amendments executed on or after October 1, 2009.

**13. TERMINATION** The performance of work under this Agreement may be terminated by the Department in whole or in part, whenever, for any reason the Agreement Administrator shall determine that such termination is in the best interests of the Department. Any such termination shall be effected by the delivery to the Provider of a Notice of Termination specifying the extent to which the performance of work under this Agreement is terminated, and the date on which such termination becomes effective. The Agreement shall be equitably adjusted to compensate for such termination and modified accordingly.

Upon receipt of the Notice of Termination, the Provider shall:

1. Stop work under this Agreement on the date and to the extent specified in the Notice of Termination;
2. Take such action as may be necessary, or as the Agreement Administrator may direct, for the protection and preservation of the property, information, and data related to this Agreement, which is in the possession of the Provider, and in which the Department has, or may acquire, an interest;
3. Terminate all orders to the extent that they relate to the performance of the work terminated by the Notice of Termination;
4. Assign to the Department in the manner, and to the extent directed by the Agreement Administrator, all of the rights, titles, and interests of the Provider under the orders so terminated, in which case the Department shall have the right, at its discretion, to settle or pay any or all claims arising out of the termination of such orders;
5. With the approval of the Agreement Administrator, settle all outstanding liabilities and claims, arising out of such termination of orders, the cost of which would be reimbursable in whole or in part, in accordance with the provisions of this Agreement;
6. Transfer title to the Department (to the extent that title has not already been transferred) and deliver in the manner, at the times, and to the extent directed by the Agreement Administrator, equipment and products purchased pursuant to this Agreement, and all files, source code, data manuals, or other documentation, in any form, that relate to all the work completed, or in progress, prior to the Notice of Termination;
7. Complete the performance of such part of the work as shall not have been terminated by the Notice of Termination; and
8. Proceed immediately with the performance of the preceding obligations, notwithstanding any delay in determining or adjusting the amount of any compensation under this section.

Notwithstanding the above, nothing herein shall limit the right of the Department to pursue any other legal remedies against the Provider.

14. **GOVERNMENTAL REQUIREMENTS** The Provider shall comply with all applicable governmental ordinances, laws, and regulations.

15. **GOVERNING LAW** This Agreement shall be governed by, interpreted, and enforced in accordance with the laws, statutes, and regulations of the State of Maine, without regard to conflicts of law provisions. The provisions of the United Nations Convention on Contracts for the International Sale of Goods and of the Uniform Computer Information Transactions Act shall not apply to this Agreement. Any legal proceeding against the Department regarding this Agreement shall be brought in the State of Maine in a court of competent jurisdiction.

16. **STATE HELD HARMLESS** The Provider shall indemnify and hold harmless the Department and its officers, agents, and employees from and against any and all claims, liabilities, and costs, including reasonable attorney fees, for any or all injuries to persons or property or claims for money damages, including claims for violation of intellectual property rights, arising from the negligent acts or omissions of the Provider, its employees or agents, officers or Subcontractors in the performance of work under this Agreement; provided, however, the Provider shall not be liable for claims arising out of the negligent acts or omissions of the Department, or for actions taken in reasonable reliance on written instructions of the Department.

17. **LIMITATION OF LIABILITY** The Provider's liability for damages sustained by the Department as the result of Provider's default or acts or omissions in the performance of work under this Agreement, whether such damages arise out of breach, negligence, misrepresentation, or otherwise, shall be no greater than:

1. Damages for violation or infringement of any copyright or trademark;
2. Damages for bodily injury (including death) to persons, and damages for physical injury to tangible personal property or real property; and
3. The amount of any other actual direct damages up to the greater of \$500,000 or three times the value of the Product or Service that is the subject of the claim, up to a maximum of \$25,000,000. For example, if the Product or Service that is the subject of the claim was valued at \$15,000,000, then the Provider would be liable for no more than \$25,000,000. For purposes of this subsection, the term "Product" would typically include the following, but not be limited to, Materials, Source Code, Machine Code, and Licenses.

Notwithstanding the above, Provider shall not be liable for any indirect or consequential damages.

18. **NOTICE OF CLAIMS** The Provider shall give the Agreement Administrator immediate notice in writing of any legal action or suit filed related in any way to this Agreement, or which may affect the performance of duties under this Agreement, and prompt notice of any claim made against the Provider by any Subcontractor, which may result in litigation related in any way to this Agreement, or which may affect the performance of duties under this Agreement.

19. **APPROVAL** This Agreement must be approved by the State Controller and the State Purchases Review Committee before it can be considered a valid enforceable document.

**20. INSURANCE REQUIREMENTS** The Provider shall procure and maintain, for the duration of the Agreement, insurance against claims for injuries to persons, or damages to property, which may arise from, or in connection with, the fulfillment of this Agreement by the Provider, its agents, representatives, employees, or Subcontractors.

**1. Minimum Coverage**

1. Commercial general liability (including products, completed operations, and broad-form contractual): \$1,000,000 per occurrence;
2. Workers' Compensation and employer's liability: as required by law;
3. Professional liability: \$1,000,000; and
4. Property (including contents coverage for all records maintained pursuant to this Agreement): \$1,000,000 per occurrence.

**2. Other Provisions** Unless explicitly waived by the Department, the insurance policies should contain, or be endorsed to contain, the following provisions:

1. The Provider's insurance coverage shall be the primary insurance. Any insurance or self- insurance maintained by the Department for its officers, agents, and employees shall be in excess of the Provider's insurance and shall not contribute to it.
2. The Provider's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.
3. The Provider shall furnish the Department with certificates of insurance and with those endorsements, if any, effecting coverage required by these Insurance Requirements. The certificates and endorsements for each insurance policy are to be signed by a person authorized by the insurer to bind coverage on its behalf. All certificates and endorsements are to be received and approved by the Department before this Agreement commences. The Department reserves the right to require complete, certified copies of all required insurance policies at any time.
4. All policies should contain a revised cancellation clause allowing thirty (30) days notice to the Department in the event of cancellation for any reason including nonpayment.

**21. NON-APPROPRIATION** Notwithstanding any other provision of this Agreement, if the Department does not receive sufficient funds to pay for the work to be performed under this Agreement, if funds are de-appropriated, or if the State does not receive legal authority to expend funds from the Maine State Legislature or Maine courts, then the State is not obligated to make payment under this Agreement.

**22. SEVERABILITY** The invalidity or unenforceability of any particular provision, or part thereof, of this Agreement shall not affect the remainder of said provision, or any other provisions, and this Agreement shall be construed in all respects as if such invalid or unenforceable provision or part thereof had been omitted.

**23. INTEGRATION** All terms of this Agreement are to be interpreted in such a way as to be consistent at all times with the terms of Rider B-IT (except for expressed exceptions to Rider B-IT included in Rider C), followed in precedence by Rider A, and any remaining Riders in alphabetical order.

**24. FORCE MAJEURE** Either party may be excused from the performance of an obligation under this Agreement in the event that performance of that obligation by a party is prevented by an act of God, act of war, riot, fire, explosion, flood, or other catastrophe, sabotage, severe shortage of fuel, power or raw materials, change in law, court order, national defense requirement, strike or labor dispute, provided that any such event, and the delay caused thereby, is beyond the control of, and could not reasonably be avoided by that party. Upon the occurrence of an event of force majeure, the time period for performance of the obligation excused under this section shall be extended by the period of the excused delay, together with a reasonable period, to reinstate compliance with the terms of this Agreement.

**25. SET-OFF RIGHTS** The State shall have all of its common law, equitable, and statutory rights of set-off. These rights shall include, but not be limited to, the State's option to withhold for the purposes of set-off any monies due to the Provider under this Agreement, up to any amounts due and owing to the State with regard to this Agreement, any other Agreement with any State department or agency, including any Agreement for a term commencing prior to the term of this Agreement, plus any amounts due and owing to the State for any other reason including, without limitation, tax delinquencies, fee delinquencies, or monetary penalties relative thereto. The State shall exercise its set-off rights in accordance with normal State practices including, in cases of set-off pursuant to an audit, the finalization of such audit by the State agency, its representatives, or the State Controller.

**26. INTERPRETATION OF THE AGREEMENT**

1. **Reliance on Policy Determinations** The Department shall determine all program policy. The Provider may, from time to time, request the Department to make policy determinations, or to issue operating guidelines required for the proper performance of this Agreement, and the Agreement Administrator shall respond in writing in a timely manner. The Provider shall be entitled to rely upon, and act in accordance with, such written policy determinations and operating guidelines, unless subsequently amended, modified, or changed in writing by the Department, and shall incur no liability in doing so unless the Provider acts negligently, maliciously, fraudulently, or in bad faith. Nothing contained in this Agreement, or in any agreement, determination, operating guideline, or other communication from the Department shall relieve the Provider of its obligation to keep itself informed of applicable State and Federal laws, regulations, policies, procedure, and guidelines, to be in complete compliance and conformity therewith.

2. **Titles Not Controlling** Titles of sections and paragraphs used in this Agreement are for the purpose of facilitating ease of reference only and shall not be construed to imply a contractual construction of the language.

3. **No Rule of Construction** This is a negotiated Agreement and no rule of construction shall apply that construes ambiguous or unclear language in favor of or against any party.

27. **PERIOD OF WORK** Work under this Agreement shall begin no sooner than the date on which this Agreement has been fully executed by the parties and approved by the Controller and the State Purchases Review Committee. Unless terminated earlier, this Agreement shall expire on the date set out on the first page of this Agreement, or at the completion and acceptance of all specified tasks, and delivery of all contracted products and services as defined in this Agreement, including performance of any warranty and/or maintenance agreements, whichever is the later date.

28. **NOTICES** All notices under this Agreement shall be deemed duly given: 1) upon delivery, if delivered by hand against receipt, or 2) five (5) business days following posting, if sent by registered or certified mail, return receipt requested. Either party may change its address for notification purposes by giving written notice of the change and setting forth the new address and an effective date.

29. **ADVERTISING AND PUBLICATIONS** The Provider shall not publish any statement, news release, or advertisement pertaining to this Agreement without the prior written approval of the Agreement Administrator. Should this Agreement be funded, in whole or in part, by Federal funds, then in compliance with the Steven's Amendment, it will be clearly stated when issuing statements, press releases, requests for proposals, bid solicitations, and other documents: (1) the percentage of the total cost that was financed with Federal moneys; and (2) the dollar amount of Federal funds.

30. **CONFLICT OF INTEREST** The Provider certifies that it presently has no interest and shall not acquire any interest which would conflict in any manner or degree with the performance of its services hereunder. The Provider further certifies that in the performance of this Agreement, no person having any such known interests shall be employed.

31. **LOBBYING**

1. **Public Funds** No Federal or State-appropriated funds shall be expended by the Provider for influencing, or attempting to influence, an officer or employee of any agency, a member of Congress or State Legislature, an officer or employee of Congress or State Legislature, or an employee of a member of Congress or State Legislature, in connection with any of the following covered actions: the awarding of any agreement; the making of any grant; the entering into of any cooperative agreement; or the extension, continuation, renewal, amendment, or modification of any agreement, grant, or cooperative agreement. Signing this Agreement fulfills the requirement that Providers receiving over \$100,000 in Federal or State funds file with the Department on this provision.

2. **Federal Certification** Section 1352 of Title 31 of the US Code requires that funds appropriated to a Federal agency be subject to a requirement that any Federal Provider or grantee (such as the Department) certifies that no Federal funds will be used to lobby or influence a Federal officer or member of Congress.



The certification the Department has been required to sign provides that the language of this certification shall be included in the award documents for all sub-awards at all tiers (including sub-agreements, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall verify and disclose accordingly. The certification also requires the completion of Federal lobbying reports and the imposition of a civil penalty of \$10,000 to \$100,000 for failing to make a required report. As a sub-recipient, the Provider understands and agrees to the Federal requirements for certification and disclosure.

3. **Other Funds** If any non-Federal or State funds have been or will be paid to any person in connection with any of the covered actions in this section, the Provider shall complete and submit a "Disclosure of Lobbying Activities" form to the Department.

### **32. PROVIDER PERSONNEL**

1. The parties recognize that the primary value of the Provider to the Department derives directly from its Key Personnel assigned in the performance of this Agreement. Key Personnel are deemed to be those individuals whose résumés were offered by the Provider in the Proposal. Therefore, the parties agree that said Key Personnel shall be assigned in accordance with the time frames in the most recent mutually agreed upon project schedule and work plan, and that no re-deployment or replacement of any Key Personnel may be made without the prior written consent of the Agreement Administrator. Replacement of such personnel, if approved, shall be with personnel of equal or greater abilities and qualifications.

2. The Department shall retain the right to reject any of the Provider's employees whose abilities and qualifications, in the Department's judgment, are not appropriate for the performance of this Agreement. In considering the Provider's employees' abilities and qualifications, the Department shall act reasonably and in good faith.

3. During the course of this Agreement, the Department reserves the right to require the Provider to reassign or otherwise remove any of its employees found unacceptable by the Department. In considering the Provider's employees' acceptability, the Department shall act reasonably and in good faith.

4. In signing this Agreement, the Provider certifies to the best of its knowledge and belief that it, and all persons associated with this Agreement, including any Subcontractors, including persons or corporations who have critical influence on or control over this Agreement, are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation by any Federal or State department or agency.

5. During the course of this Agreement, the Department reserves the right to require a background check on any of the Provider's personnel (employees and Subcontractors) that are in any way involved in the performance of this Agreement.

**33. STATE PROPERTY** The Provider shall be responsible for the proper custody and care of any Department or State owned property furnished for the Provider's use in connection with the

performance of this Agreement, and the Provider will reimburse the Department for its loss or damage, normal wear and tear excepted.

**34. PATENT, COPYRIGHT, AND OTHER PROPRIETARY RIGHTS**

1. The Provider certifies that all services, equipment, software, supplies, and any other products provided under this Agreement do not, and will not, infringe upon or violate any patent, copyright, trade secret, or any other proprietary right of any third party. In the event of any claim by a third party against the Department, the Department shall promptly notify the Provider and the Provider, at its expense, shall defend, indemnify, and hold harmless the Department against any loss, cost, expense, or liability arising out of such claim, including reasonable attorney fees.
2. The Provider may not publish or copyright any data without the prior approval of the Department. The State and the Federal Government, if applicable, shall have the right to publish, duplicate, use, and disclose all such data in any manner, and for any purpose whatsoever, and may authorize others to do so.

**35. PRODUCT WARRANTY** The Provider expressly warrants its products and services for one full year from their final written acceptance by the Department. The responsibility of the Provider with respect to this warranty is limited to correcting deficiencies in any deliverable using all the diligence and dispatch at its command, at no additional cost to the Department. The Provider is also responsible for correcting and/or updating any documentation affected by any operational support performed under this warranty provision.

**36. OPPORTUNITY TO CURE** The Agreement Administrator may notify the Provider in writing about the Department's concerns regarding the quality or timeliness of a deliverable. Within five (5) business days of receipt of such a notice, the Provider shall submit a corrective action plan, which may include the commitment of additional Provider resources, to remedy the deliverable to the satisfaction of the Agreement Administrator, without affecting other project schedules. The Department's exercise of its rights under this provision shall be not be construed as a waiver of the Department's right to terminate this Agreement pursuant to Section 13, Termination.

**37. COVER** If, in the reasonable judgment of the Agreement Administrator, a breach or default by the Provider is not so substantial as to require termination, and reasonable efforts to induce the Provider to cure the breach or default are unavailing, and the breach or default is capable of being cured by the Department or by another contractor without unduly interfering with the continued performance by the Provider, then the Department may provide or procure the services necessary to cure the breach or default, in which event the Department shall withhold from future payments to the Provider the reasonable costs of such services.

**38. ACCESSIBILITY** All IT products must be accessible to persons with disabilities, and must comply with the State Accessibility Policy and the Americans with Disabilities Act. All IT applications must comply with the Computer Application Program Accessibility Standard (Maine.gov/oit/accessiblesoftware). All IT applications and contents delivered through web browsers must comply with the Website Standards (Maine.Gov/oit/webstandard) and the Website Accessibility Policy (Maine.Gov/oit/accessibleweb).

**39. STATE IT POLICIES** All IT products and services delivered as part of this Agreement must conform to the State IT Policies, Standards, and Procedures (Maine.Gov/oit/oitpolicies) effective at the time this Agreement is executed

**40. CONFIDENTIALITY**

1. All materials and information given to the Provider by the Department, or acquired by the Provider on behalf of the Department, whether in verbal, written, electronic, or any other format, shall be regarded as confidential information.
2. In conformance with applicable Federal and State statutes, regulations, and ethical standards, the Provider and the Department shall take all necessary steps to protect confidential information regarding all persons served by the Department, including the proper care, custody, use, and preservation of records, papers, files, communications, and any such items that may reveal confidential information about persons served by the Department, or whose information is utilized in order to accomplish the purposes of this Agreement.
3. In the event of a breach of this confidentiality provision, the Provider shall notify the Agreement Administrator immediately.
4. The Provider shall comply with the Maine Public Law, Title 10, Chapter 210-B (Notice of Risk to Personal Data Act).

**41. OWNERSHIP**

1. All data (including Geographical Information Systems data), notebooks, plans, working papers and other works produced, and equipment and products purchased in the performance of this Agreement are the property of the Department, or the joint property of the Department and the Federal Government, if Federal funds are involved. The State (and the Federal Government, if Federal funds are involved) shall have unlimited rights to use, disclose, duplicate, or publish for any purpose whatsoever all information and data developed, derived, documented, or furnished by the Provider under this Agreement, or equipment and products purchased pursuant to this Agreement. The Provider shall furnish such information and data, upon the request of the Department, in accordance with applicable Federal and State laws.
2. Upon termination of this Agreement for any reason, or upon request of the Department, the Provider agrees to convey to the Department good titles to purchased items free and clear of all liens, pledges, mortgages, encumbrances, or other security interests.

**42. CUSTOM SOFTWARE** For all custom software furnished by the Provider as part of this agreement, the following terms and conditions shall apply:

1. The Department shall own all custom software. The Department shall grant all appropriate Federal and State agencies a royalty-free, non-exclusive, and irrevocable license to reproduce, modify, publish, or otherwise use, and to authorize others to do so, all custom

software. Such custom software shall include, but not be limited to, all source, object and executable code, operating system instructions for execution, data files, user and operational/administrative documentation, and all associated administrative, maintenance, and test software that are relevant to this Agreement.

2. A fundamental obligation of the Provider is the delivery to the Department of all ownership rights to the complete system, free of any claim or retention of rights thereto by the Provider. The Provider acknowledges that this system shall henceforth remain the sole and exclusive property of the Department, and the Provider shall not use or describe such software and materials without the written permission of the Department. This obligation to transfer all ownership rights to the Department on the part of the Provider is not subject to any limitation in any respect.

**43. OFF-THE-SHELF (OTS) SOFTWARE** For all OTS software purchased by the Provider as part of this Agreement, the following terms and conditions shall apply.

1. This Agreement grants to the Department a non-exclusive and non-transferable license to use the OTS software and related documentation for its business purposes. The Department agrees that the Provider may, at its own expense, periodically inspect the computer site in order to audit the OTS software supplied by the Provider, installed at the Department's site, at mutually agreed upon times. In the event that a separate license agreement accompanies the OTS software, then the terms of that separate license agreement supersede the above license granted for that OTS software.

2. This Agreement does not transfer to the Department the title to any intellectual property contained in any OTS software. The Department will not decompile or disassemble any OTS software provided under this Agreement, or modify any OTS software that bears the copyright notice of a third party. The Department will make and maintain no more than one archival copy (for back-up purpose) of each OTS software, and each copy will contain all legends and notices, and will be subject to the same conditions and restrictions as the original.

3. If the CPU on which any OTS software is licensed becomes temporarily unavailable, use of such OTS software may be temporarily transferred to an alternative CPU until the original CPU becomes available.

**44. SOFTWARE AS SERVICE** When the software is fully owned, hosted, and operated by the Provider, and the Department uses said software remotely over the Internet, the following terms and conditions shall apply:

1. The Provider, as depositor, shall enter into an escrow contract, upon terms acceptable to the Department, with a recognized software Escrow Agent. The escrow contract must provide for the Department to be an additional party/beneficiary. The Provider shall deposit with the Escrow Agent the software, all relevant documentation, and all of the Department's data, and all updates thereof (the "Deposit Materials"), in electronic format. Deposits will occur no less frequently than once a month.

2. The escrow contract shall provide for the retention, administration, and controlled access of the Deposit Materials, and the release of the Deposit Materials to the Department, upon receipt of a joint written instruction from the Department and the Provider, or upon receipt of written notice from the Department that:

- a. The Provider has failed to carry out its obligations set forth in the this Agreement; or
- b. A final, non-appealable judicial determination that the Provider has failed to continue to do business in the ordinary course; or
- c. The Provider has filed a voluntary petition in bankruptcy, or any voluntary proceeding relating to insolvency, receivership, liquidation, or composition for the benefit of creditors, or becomes subject to an involuntary petition in bankruptcy, which petition or proceeding is not dismissed or unstayed within sixty (60) days from the date of filing; or
- d. The Provider is in material breach of its maintenance and support obligations and has failed to cure such breach within thirty (30) days from the date of receipt by the Provider of written notice of such breach; or
- e. A condition has occurred that materially and adversely impacts the Provider's ability to support the software and the Provider has failed to cure such condition within thirty (30) days from the date of receipt by the Provider of written notice of such condition.

3. The Provider is responsible for all fees to be paid to the Escrow Agent.

4. The Escrow Agent may resign by providing advance written notice to both the Department and the Provider at least thirty (30) calendar days prior to the date of resignation. In such an event, it is the obligation of the Provider to establish a new escrow account with a new Escrow Agent.

45. **THIS ITEM IS INTENTIONALLY LEFT BLANK**

46. **THIS ITEM IS INTENTIONALLY LEFT BLANK**

47. **ENTIRE AGREEMENT** This document contains the entire Agreement of the parties, and neither party shall be bound by any statement or representation not contained herein. No waiver shall be deemed to have been made by any of the parties unless expressed in writing and signed by the waiving party. The parties expressly agree that they shall not assert in any action relating to this Agreement that any implied waiver occurred between the parties which is not expressed in writing. The failure of any party to insist in any one or more instances upon strict performance of any of the terms or provisions of this Agreement, or to exercise an option or election under this Agreement, shall not be construed as a waiver or relinquishment for the future of such terms, provisions, option, or election, but the same shall continue in full force and effect. Use of one remedy shall not waive the Department's right to use other

remedies. Failure of the Department to use a particular remedy for any breach shall not be deemed as a waiver for any subsequent breach. No waiver by any party of any one or more of its rights or remedies under this Agreement shall be deemed to be a waiver of any prior or subsequent rights or remedies under this Agreement.

RIDER C  
EXCEPTIONS TO RIDER B-IT

1. Section 17, Limitation of Liability, Item #3 – Provider’s maximum liability to the Department or any individual school district to whom Provider has provided products or services under this Agreement shall be limited to actual and direct damages in an amount equal to the charges paid by the Department for the product or service on which the claim is based.
2. Section 38, Accessibility; and Section 39 State IT Policies – The Department agrees that if upon review of the Products being provided by Provider hereunder it identifies any material non-compliance with the Accessibility or State IT Policies set forth in the Agreement (the “Policies”) it shall promptly provide written notice of such non-compliance to Provider. Provider will, within thirty (30) days of its receipt of such notice, advise the Department as to whether it will remedy those functions identified by the Department as being materially out of compliance with the Policies. If Provider elects not to remedy the functions either party shall, without penalty or liability to the other, have the right to terminate this Agreement upon thirty (30) days prior written notice.
3. Section 44 - Software Source Code, Documentation and Support Material Escrow  
Since the software may be hosted and operated by the Provider, and the Department/School use said software remotely over the Internet, the following terms and conditions shall apply:

Provider will store with a third party escrow agent all computer source code, documentation and support material for the product(s) licensed as part of this Agreement. Provider will designate Department as a “Beneficiary” of the Provider’s Source Code Escrow Agreement. The Beneficiary will have the right to obtain the Source Code, Documentation and Support Material in accordance with and subject to the terms and conditions of this Agreement and the Powerschool Licensing Agreement governing the use of the licensed products provided that all of the following three (3) conditions are met (collectively a “Release Event”):

- i. The Provider will wind down its business or liquidate its business under a Chapter 7 Bankruptcy proceeding;
- ii. No entity has succeeded to the Provider’s obligations to provide maintenance and support on the Software in accordance with the Agreement in effect between the parties; and,
- iii. The Beneficiary is not in breach of its obligations under the Powerschool Software License Agreement.

Permitted Use Upon Release Event. The following terms and conditions (“Permitted Use”) apply to Source Code, Documentation and Support materials released to Beneficiary:

- Beneficiary may only use the Source Code to maintain, modify and enhance the Software. The maintained, modified and enhanced Software may only be used in accordance with the Powerschool Software License Agreement.
- Beneficiary may not disclose the Source Code to any third party and shall keep the Source Code confidential, except as provided below.
- Beneficiary may engage the services of independent contractors (e.g., computer programmers or an outsourced maintenance service) to assist Beneficiary in exercising its Permitted Use rights. Each such independent contractor must agree in writing, containing substantially the same confidentiality

provisions as in the Powerschool Software License Agreement, that it/he/she will not disclose or transfer the Source Code Materials to any other person, and will not use the Source Code Materials for any purpose other than to assist Beneficiary in exercising its Permitted Use rights. These restrictions shall not limit or negate the rights, if any, of the independent contractor with respect to materials that are similar or identical to the Source Code and are lawfully received by the independent contractor from a source other than Beneficiary (e.g., a maintenance service that receives similar or identical materials from other beneficiaries or licensees).

The Provider is responsible for all fees to be paid to the Escrow Agent.

The Escrow Agent may resign by providing advance written notice to both the Department and the Provider. In such an event, it is the obligation of the Provider to establish a new escrow account with a new Escrow Agent.

13. Termination – Clarification of Software License Right Terms - At some future time, the State of Maine may no longer choose to or have available funding to continue the contracted software use subscription and support services agreement for Pearson PowerSchool software or this contract may terminate and not be renewed in some other fashion. At such time, when software subscription and support services ends, school districts with current software subscriptions may continue use of the software and assume payment for the subscriptions. Additionally, those school districts which purchased Pearson software prior to initiation or outside of the agreement, who have perpetual software licenses to Pearson PowerSchool software (in suspension while the State funded the annual software subscription and support payments) are entitled to have their perpetual software licenses reinstated at no charge provided the school district is current with software support and maintenance payments at such time.



RIDER D

Pearson License Product Agreement – Powerschool Software

See attached document.



**IMPORTANT: DO NOT ALLOW LICENSED PRODUCT (AS DEFINED BELOW) TO BE INSTALLED OR USED WITHOUT READING THE TERMS AND CONDITIONS OF THIS AGREEMENT. IF YOU ARE NOT WILLING TO ACCEPT THESE TERMS AND CONDITIONS, YOU MUST RETURN THE LICENSED PRODUCT TO PEARSON WITHIN TEN (10) DAYS OF RECEIPT. BY INSTALLING AND USING THE LICENSED PRODUCT AS PERMITTED BY THIS LICENSE, YOU ARE AGREEING TO BE BOUND BY THE TERMS OF THIS AGREEMENT.**

#### **LICENSED PRODUCT AGREEMENT - POWERSCHOOL SOFTWARE**

**1. DEFINITIONS.** NCS Pearson, Inc., the licensor of Licensed Product pursuant to this Agreement, is referred to herein as "Pearson." The school, school district or other entity licensing Licensed Product is referred to herein as "Licensee." This Licensed Product Agreement is referred to herein as the "Agreement." In addition, the following definitions shall apply:

**1.1 Documentation** means all written user information, whether in electronic, printed or other format, delivered or made available to Licensee by Pearson with respect to Licensed Product, now or in the future, including instructions, manuals, training materials, and other publications that contain, describe, explain or otherwise relate to Licensed Product.

**1.2 Embedded Applications** means software developed by third parties that may be embedded in or bundled with the software developed by Pearson as part of Licensed Product.

**1.3 Licensed Product** means all software (including Embedded Applications) and all related Documentation licensed to Licensee pursuant to this Agreement, now or in the future; provided, however, that Licensed Product shall not include any Third Party Software.

**1.4 Licensed Sites** means those sites for which Licensee has paid applicable license fees for Licensed Product and at which Licensee is authorized to utilize Licensed Product, as specified in writing by Pearson in Pearson's acknowledgment of Licensee's order or otherwise.

**1.5 State Reporting Code (or SRC)** means Licensed Product that may be available to Licensee to assist Licensee in meeting specific state reporting requirements and that is designated as State Reporting Code by Pearson.

**1.6 Third Party Software** means any software product designated as Third Party Software by Pearson, and any related documentation supplied to Licensee. Any product designated as Third Party Software is licensed by an entity other than Pearson, under different license terms than those set forth herein. Third Party Software is different from Embedded Applications in that Pearson licenses the Embedded Applications to Licensee as part of Licensed Product (but in some cases, such Embedded Applications may be subject to additional license terms as identified herein). Pearson is not the licensor of Third Party Software.

#### **2. LICENSE GRANT**

**2.1 Basic Terms.** Subject to the terms and conditions of this Agreement, Pearson grants to Licensee a restricted, personal, non-exclusive, non-transferable license to use Licensed Product to support its school administrative functions, only at the Licensed Sites. Such license shall be perpetual, unless it is specified in Pearson's price quotation or proposal to Licensee that Licensee's license will be limited to a specified length of time, or unless this license is terminated under the provisions of this Agreement. In no event may Licensed Product be: (a) used other than at the Licensed Sites; (b) made available via a network or otherwise to any school, school district or third party other than the Licensed Sites; or (c) used to perform service bureau functions for third parties or to process or manage data for locations other than the Licensed Sites. Licensed Product will be provided by Pearson and may be used by Licensee in executable code form only; source code to Licensed Product will not be provided. Licensed Product shall only be used as expressly authorized by this Agreement.

**2.2 Copies.** Licensee shall not make copies of or otherwise reproduce any Licensed Product, except that: (a) Licensee may make copies of the software component of any Licensed Product, in executable code form, only for backup or archival purposes; and (b) Licensee may make unlimited printed copies for Licensee's internal use of any Documentation delivered by Pearson to Licensee. Licensee shall retain and include all of Pearson's or any third parties' copyright and other proprietary rights notices on all copies of Licensed Product. Licensee shall not otherwise reproduce Licensed Product.

**2.3 Supplemental Terms and Conditions.** The product-specific terms and conditions set forth in the Supplemental Terms and Conditions attached hereto are incorporated herein by reference. These additional terms and conditions are applicable to the extent that Licensee licenses any of the specific products or modules listed therein.

#### **3. RESTRICTIONS ON USE OF LICENSED PRODUCT**

**3.1 Intellectual Property Rights.** Licensed Product is proprietary to Pearson and/or third parties and is protected by copyright, trade secret, and other intellectual property rights. The placement of a copyright notice on any portion of Licensed Product does not mean that such portion has been published and will not derogate any claim of trade secret protection for the same. Title to all complete or partial copies, and all applicable rights to copyrights, patents, trademarks and trade secrets in Licensed Product, are and shall remain the property of Pearson or their other owners, as applicable.

**3.2 Confidentiality.** Licensee agrees to keep Licensed Product confidential and to prevent unauthorized disclosure or use of Licensed Product in Licensee's possession. Licensee shall not transfer, assign, provide or otherwise make Licensed Product available to any other party without the prior written consent of Pearson. Any attempted sublicense, assignment or transfer of any rights, duties or obligations by Licensee in violation of this Agreement shall be void. Licensee shall notify Pearson immediately in writing of any unauthorized use or distribution of Licensed Product of which Licensee becomes aware and shall take all steps necessary to ensure that such unauthorized use or distribution is terminated. For any Licensed Product for which Pearson makes

available passwords or other user identification technology to access such Licensed Product, Licensee shall advise all users of such passwords or other user identifications that such passwords or user identifications must be maintained in confidence and not transcribed or shared.

**3.3 Modifications.** Licensee shall not, and shall not allow any third party to, modify, decompile, disassemble or reverse engineer Licensed Product or attempt to create source code for Licensed Product by any means without Pearson's express written authorization.

**4. SUPPORT AND SERVICES.** Any support and/or services ordered from Pearson by Licensee in connection with the license of Licensed Product shall be provided by Pearson pursuant to Pearson's terms, conditions and policies applicable at the time of order to the particular support and/or services purchased. Pearson's current terms, conditions and policies for delivery of support and services, which are subject to change from time to time, are attached hereto as the Support and Services Policies. Licensee's license of Licensed Product does not, by itself, entitle Licensee to any support, upgrades, patches, fixes or the like for Licensed Product; Licensee must maintain a current support subscription and pay any applicable support fees to be eligible for support services.

**5. FEES AND TAXES.** Licensee agrees to pay Pearson, in accordance with Pearson's invoice terms, the fees charged for the Licensed Product and related support, services and/or other items ordered by Licensee, together with any other charges made in accordance with this Agreement, and all applicable sales, use or other taxes or duties, however designated, except for taxes based on Pearson's net income. If Licensee claims tax exempt status, Licensee agrees to provide evidence of such tax exemption upon Pearson's request. To the extent that such tax exemption cannot be properly claimed or does not extend to certain taxes or transactions, Licensee shall be responsible for any and all taxes and assessments that arise from this Agreement and related transactions (except for taxes based upon Pearson's net income). Licensee shall pay a monthly charge of 1.5% (18% annually) on all amounts not paid when due, or, if a lower maximum rate is established by law, then such lower maximum rate. All pricing set forth in any Pearson quotation or invoice is in United States dollars unless otherwise specified.

**6. THIRD PARTY SOFTWARE LICENSE TERMS; EMBEDDED APPLICATIONS; OPEN SOURCE SOFTWARE.** Any software designated by Pearson as Third Party Software is provided to Licensee pursuant to a separate license agreement between Licensee and the third party supplier, which will be provided to Licensee by the third party supplier. All support, warranties, and services related to Third Party Software are provided by the supplier of the Third Party Software under such third party's terms and conditions, and not by Pearson, unless otherwise specifically provided under this Agreement. Only Sections 5, 6, 9 and 12 of this Agreement apply to Third Party Software and any related support and services set forth in this Agreement. In addition, Licensed Product may contain Embedded Applications. If any additional license terms are identified in the Supplemental Terms and Conditions with respect to any Embedded Applications, Licensee shall comply with such conditions with respect to such applications. Certain Embedded Applications may also be subject to "open source" licensing terms. In some cases, the open source licensing terms may conflict with portions of this Agreement, and to the extent of any such conflict, the open source licensing terms shall govern, but only as to the software components subject to those terms. Notwithstanding the foregoing, Licensee acknowledges that if any open source software component is licensed under terms that permit Licensee to modify such component, and if Licensee does so modify such component, then Pearson will not be responsible for any incompatibility with such modifications and the remainder of the Licensed Product.

**7. COMPATIBLE PLATFORMS/HARDWARE.** Licensee is responsible for obtaining and maintaining an appropriate operating environment with the necessary hardware, operating system software and other items required to use and access Licensed Product. Pearson will not be responsible for any incompatibility between Licensed Product and any systems of operating systems, hardware, browsers or other products not specifically approved by Pearson for Licensee's use with Licensed Product. Pearson will make written requirements available to Licensee at Licensee's request.

**8. LIMITED MEDIA WARRANTY.** Pearson warrants that the media on which Licensed Product is recorded shall be free from defects in materials and workmanship under normal use for a period of ninety (90) days from the date of purchase. Licensee's exclusive remedy under this Section shall be replacement of the defective media.

**9. DISCLAIMER OF OTHER WARRANTIES.** LICENSED PRODUCT IS PROVIDED "AS IS" AND WITHOUT WARRANTY OF ANY KIND (EXCEPT AS PROVIDED IN SECTION 8), AND PEARSON AND ITS LICENSORS EXPRESSLY DISCLAIM ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT. PEARSON DOES NOT WARRANT THAT THE FUNCTIONALITY CONTAINED IN THE LICENSED PRODUCT WILL MEET LICENSEE'S REQUIREMENTS, OR THAT THE OPERATION OF THE LICENSED PRODUCT WILL BE UNINTERRUPTED OR ERROR-FREE, OR THAT DEFECTS IN THE LICENSED PRODUCT WILL BE CORRECTED. FURTHERMORE, PEARSON DOES NOT WARRANT OR MAKE ANY REPRESENTATIONS REGARDING THE USE OR THE RESULTS OF THE USE OF THE LICENSED PRODUCT IN TERMS OF ITS CORRECTNESS, ACCURACY, RELIABILITY OR OTHERWISE. LICENSEE AGREES THAT THE USE OF LICENSED PRODUCT IS AT LICENSEE'S OWN RISK. NO ORAL OR WRITTEN INFORMATION OR ADVICE GIVEN BY PEARSON OR A PEARSON

technical and product questions ("Authorized Representatives"). If it is desired that additional Authorized Representatives be permitted to contact Pearson for support, Licensee must pay additional support fees for such additional Authorized Representatives to have access to support. All such Authorized Representatives shall complete, at a minimum, Pearson's Initial Product Training for the Licensed Product. Licensee shall provide Pearson with a written list of its Authorized Representatives as part of the implementation process for the Licensed Product, and shall keep Pearson informed of replacements for Authorized Representatives as soon as possible after the replacements occur.

**4. HOSTING SERVICES.** If Licensee chooses to have Pearson host the Licensed Product on its behalf (which service is available only at an additional annual, renewable cost), Licensee acknowledges and agrees that the Licensed Product may be inaccessible or inoperable from time to time due to maintenance or to causes that are beyond the control of Pearson or are not reasonably foreseeable by Pearson, including, but not limited to: the interruption or failure of telecommunication or digital transmission links; hostile network attacks; network congestion; or other failures (collectively "Downtime"). Pearson shall use commercially reasonable efforts to minimize any disruption, inaccessibility and/or inoperability of the Licensed Product caused by Downtime, whether scheduled or not. Should Licensee decide to terminate hosting services, Licensee will retain its license to Licensed Product, subject to the terms of this Agreement. Pearson will provide Licensee with at least sixty (60) days notice if Pearson determines that it will no longer offer hosting services to Licensee (but in any event will continue providing hosting services for the balance of the current term for which Licensee has prepaid for such services). Notwithstanding the foregoing, Licensee acknowledges that

Pearson may terminate hosting services immediately at any time if Licensee does not remain current in its payment of Pearson's applicable fees for such hosting services.

**5. HARDWARE.** If, in conjunction with Licensee's license of Licensed Product, Licensee is purchasing any hardware through Pearson, Licensee acknowledges that such hardware purchase is being facilitated by Pearson as an accommodation to Licensee only. The warranties on any hardware not manufactured by Pearson will be limited to those provided by the manufacturers of such hardware and/or the vendors through which such hardware is being supplied. Pearson will pass through any manufacturer's or other vendor's warranty to the extent permitted by the manufacturer or other vendor, as applicable. Licensee agrees to look solely to the applicable manufacturer or other vendor, and not to Pearson, to fulfill any such warranties and any maintenance, repair, support, or other service obligations related to such hardware. Unless otherwise specifically agreed to in writing by Pearson, Pearson does not provide support for any of the hardware or third party software being purchased by Licensee through Pearson. Any requests for such support should be directed to the applicable hardware or software manufacturer. Licensee further agrees that any claims related to any such hardware, whether for breach of warranty or otherwise, must be made directly against the applicable manufacturer or other vendor, and not against Pearson, and that Pearson shall have no liability whatsoever in connection with such claims.

## SUPPORT AND SERVICES POLICIES

**1. DEFINITIONS.** Capitalized terms not defined herein shall have the meanings assigned to them in the applicable Licensed Product Agreement ("Agreement") between Licensee and Pearson to which these Support and Services Policies ("Policies") are attached. In addition, for purposes of these Policies, the following definitions shall apply:

**1.1 Errors** shall mean a reproducible failure of Licensed Product to operate in accordance with its standard Documentation, despite the proper installation and use of Licensed Product in a proper operating environment and on hardware and system software sufficient to meet Pearson's then-current minimum requirements, which are subject to change as New Versions are released. User mistakes are not Errors within the meaning of these Policies. Errors may be due to problems in Licensed Product, the Documentation, or both.

**1.2 Fix** shall mean a patch, service pack or corrective update of Licensed Product that Pearson may prepare in its discretion on an interim basis, prior to issuance of a New Version, to correct programming Errors that prevent or obstruct normal operation of Licensed Product in accordance with the applicable then-current Documentation.

**1.3 New Products** shall mean new products, programs or modules developed by Pearson that provide features, functions or applications not included in the Licensed Product originally licensed by Licensee and for which additional license fees apply as determined by Pearson. A New Product may be usable with or in addition to the Licensed Product originally licensed by Licensee. New Products will be licensed to Licensee under the terms of Pearson's then-current license agreement only after payment of applicable fees.

**1.4 New Version** shall mean an updated version of Licensed Product issued by Pearson, which may include Fixes, together with such other modifications, updates, enhancements and improvements to Licensed Product that Pearson may, in its discretion, develop and deem ready for distribution and that Pearson standardly provides to all customers with a current support subscription to such Licensed Product.

**1.5 Support Services** shall mean those support services described in Section 3.1 that will be provided hereunder with respect to Licensed Product during Licensee's Support Term.

**1.6 Support Term** shall mean the length of time Support Services are to be provided hereunder and for which Licensee has paid any applicable Support Services fees, including any initial Support Term and any renewal Support Terms.

**1.7 Telephone and E-mail Support** shall mean telephone and e-mail support services, available Monday through Friday, during Pearson's normal business hours, exclusive of Pearson's holidays, regarding Licensee's use of Licensed Product and any problems that Licensee experiences in using Licensed Product.

**2. SUPPORT TERM FEES.** Support Services for Licensed Product are available at an additional cost. For Support Services purchased concurrently with Licensee's license to Licensed Product, Licensee's initial Support Term will begin upon shipment of Licensed Product (or, in the case of Licensed Product made available for download electronically, upon Pearson's provision of the necessary licensing information to enable Licensee to download Licensed Product) and terminate one (1) year thereafter, unless a different Support Term is specified in Pearson's written acknowledgment of Licensee's order, or unless terminated earlier in accordance with the terms of these Policies or the Agreement. Either party may terminate the provision of Support Services as of the end of the then-current Support Term by providing written notice to the other party prior to the end of the then-current Support Term that such party does not wish to renew the Support Term. If no notice of non-renewal is given by either party, then Pearson will invoice Licensee for the applicable renewal fees for a subsequent Support Term. If Licensee pays the applicable renewal fees, then Licensee's Support Term will renew for the applicable renewal term stated on Pearson's renewal invoice; otherwise, Licensee's Support Term will terminate at the end of Licensee's current paid-up Support Term. If Licensee's Support Term is so terminated due to non-payment, and then Pearson subsequently reinstates Licensee's access to support, such reinstated access shall remain subject to the terms of these Policies. For the Initial Support Term, Licensee shall pay

the charges specified in Pearson's initial invoice. For renewal Support Terms, Licensee shall pay Pearson's then-current annual Support Services fees. Pearson may supply new or modified Support and Services Policies or other terms and conditions to Licensee related to the provision of Support Services in a renewal term, in which event such new or modified Support and Services Policies or other terms and conditions will govern Pearson's provision of Support Services in such renewal term.

**3. SUPPORT SERVICES.** Pearson, or an entity under contract with and authorized by Pearson to provide Support Services, will provide Support Services for Licensed Product during the Support Term. The scope of Support Services shall be as follows:

**3.1 Support.** Support Services shall include: (a) Telephone and E-mail Support; (b) access to an online support website, as maintained by Pearson for customers maintaining a current support subscription; (c) Fixes, as developed and made generally available by Pearson in its discretion to address Errors that Licensee is experiencing in using Licensed Product; and (d) New Versions, as developed and made generally available by Pearson. Support Services do not include New Products. Pearson determines, in its sole discretion, what constitutes a New Product (for which additional license fees apply), and what improvements and enhancements to existing Licensed Product functionality are to be included in a New Version (and are therefore provided at no charge to customers with a current support subscription).

**3.2 Custom Programs.** For any custom programs developed for Licensee by Pearson, Support Services are available only on a time and materials basis at Pearson's current rates and charges for these services; support for custom programs is not included in Support Services. In addition, to the extent that Licensed Product includes any functionality that allows Licensee to customize screens or reports, Pearson will support the application infrastructure utilized to create such customizations but will not be responsible for supporting any such customizations.

**3.3 Training.** In order to receive Support Services described herein, Licensee must purchase appropriate training regarding the use and operation of Licensed Product. Telephone and E-mail Support may be limited to a specified number of authorized representatives of Licensee who have been appropriately trained.

**3.4 Enhancements to SRC.** Pearson may provide certain enhancements to SRC to customers that are current in their payment of annual support fees for the SRC to Pearson. However, Pearson reserves the right, in its discretion: (a) to require that additional fees be paid by customers desiring that SRC be updated in connection with new reporting requirements in their state, in the event that such state's education department or equivalent entity makes changes to the state's reporting requirements that were not anticipated at the time Pearson determined its applicable support fees for the SRC in that state; or (b) not to make further changes or enhancements to SRC in a given state based on lack of market demand, the nature and scope of the changes required, or other factors.

**4. LICENSEE RESPONSIBILITIES.** To receive Support Services, Licensee shall: (a) report Errors or suspected Errors for which Support Services are needed, and supply Pearson with sufficient information and data to reproduce the Error; (b) procure, install, operate and maintain hardware, operating systems and other software that are compatible with the most current supported version of Licensed Product; (c) establish adequate operational back-up provisions in the event of malfunctions or Errors; (d) maintain an operating environment free of any modifications or other programming that might interfere with the functioning of Licensed Product; (e) maintain hardware and system software consistent with Pearson's minimum requirements; and (f) timely install all Fixes and New Versions supplied by Pearson in the proper sequence, and have the most current version of Licensed Product installed. Licensee acknowledges that Fixes and New Versions may be made available electronically, and that, in some cases, Pearson may maintain e-mail distribution lists that are used to notify customers of the availability of Fixes and New Versions and to provide other information to customers that are maintaining a current support subscription. Licensee shall be responsible for including the appropriate Licensee personnel on any such e-mail distribution lists or Pearson so that Licensee receives such notifications and other information.

5. **SUPPORT FOR PRIOR VERSIONS.** As set forth in Section 4 of these Policies, Licensee must timely install all Fixes and New Versions to receive Support Services. In some cases, it may not be practical for certain customers to install a New Version immediately upon release. Therefore, Pearson may, in its discretion, continue to provide Telephone and E-mail Support for the prior version of Licensed Product for a period of time after release of a New Version. Licensee acknowledges that Fixes and other code maintenance will not be available for prior versions of Licensed Product (including SRC) after the release of a New Version.

## 6. PROFESSIONAL SERVICES

6.1 **Fees and Expenses.** In addition to providing Support Services during the Support Term, Pearson will perform such other professional services (training, installation, consulting, project management, etc.) as may be specified in Pearson's written acknowledgment of Licensee's order, or as may be subsequently agreed upon by the parties; provided that Pearson may, at its option, arrange for any such services to be performed by another entity on behalf of Pearson. Licensee agrees to pay for such services at the rates and charges specified in Pearson's written acknowledgment of Licensee's order, or, for work subsequently requested, at the rates agreed upon by Licensee and Pearson for such subsequent work. Pearson reserves the right to require a purchase order or equivalent documentation from Licensee prior to performing any services, or to require prepayment of certain services. Unless otherwise specified, all rates quoted are for services to be performed during Pearson's normal business hours; additional charges may apply for evenings, weekends or holidays. Licensee shall also pay Pearson for travel expenses (lodging, meals, transportation and other related expenses) incurred in the performance of services. All such additional charges will be due and payable concurrently with payment for services. Pearson reserves the right to impose a minimum labor charge for each on-site visit. The rates and charges specified in Pearson's acknowledgment of Licensee's order shall apply to those services originally ordered; however, Pearson reserves the right to change service rates or other terms as a condition of entering into any subsequent service engagement. In the event that Licensee pays in advance for any services, all services must be scheduled and delivered within twelve (12) months of such payment, unless otherwise agreed in writing by Pearson; any portion of any prepaid services amount that has not been used by Licensee toward services actually rendered within such twelve (12) month period shall be forfeited.

6.2 **Facilities.** Licensee acknowledges that certain services are intended to be performed by Pearson off-site (e.g., through remote communication capabilities). If any portion of the work will be performed on Licensee's premises, Licensee agrees to provide appropriate access to utilities, work space and other on-site accommodations reasonably necessary to enable Pearson to perform such work.

6.3 **Confidentiality.** Pearson agrees to use commercially reasonable efforts to maintain the confidentiality of Licensee confidential information that is disclosed to Pearson in connection with the performance of services, and to use such Licensee confidential information solely for purposes of performing services hereunder. Pearson shall require its employees, agents and subcontractors performing work hereunder to do likewise. For purposes of this Section, "Licensee confidential information" shall mean any student or personnel data belonging to Licensee, or any other Licensee information or data labeled or identified as confidential at the time of disclosure, provided, however, that this definition and the obligations of this Section shall not extend to any information that: (a) is or becomes publicly known through no fault or negligence of Pearson; (b) is or becomes lawfully available from a third party without restriction; (c) is independently developed by Pearson; or (d) is disclosed without restriction by Licensee to any third party at any time.

6.4 **Training.** Pearson reserves the right to limit the number of persons permitted to attend any training class in accordance with Pearson's training standards.

6.5 **Services Cancellation.** Licensee shall pay a cancellation charge equal to fifty percent (50%) of the services fee and any non-refundable expenses incurred by Pearson if Licensee cancels any scheduled professional services less than fourteen (14) days before the occurrence of any service dates that Pearson has scheduled at Licensee's request.

7. **OWNERSHIP OF MATERIALS.** Pearson shall be the owner of all copyrights, patent rights and other intellectual property rights in any software code, documentation, reports or other deliverables (collectively, "Deliverables") created for or provided to Licensee pursuant to these Policies or any associated Statement of Work entered into by the parties. Provided that Licensee pays Pearson all fees and expenses associated with the development and provision of such Deliverables, Licensee shall have a paid-up, royalty-free license to use such Deliverables for Licensee's internal use only, solely for the purpose for which such Deliverables were provided. Nothing in this Agreement shall prevent Pearson from providing any Deliverables to Pearson's other customers or third parties. Notwithstanding the foregoing, Pearson acknowledges and agrees that any Licensee confidential information (as defined in Section 6.3) that is incorporated into any Deliverable remains subject to the provisions of Section 6.3.

8. **DISCLAIMER OF WARRANTIES.** THERE ARE NO EXPRESS OR IMPLIED WARRANTIES IN RELATION TO THE SUPPORT SERVICES OR OTHER PROFESSIONAL SERVICES THAT ARE THE SUBJECT MATTER OF THESE POLICIES, AND PEARSON EXPRESSLY DISCLAIMS ANY WARRANTIES, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR NON-INFRINGEMENT. SOME JURISDICTIONS MAY NOT ALLOW THE EXCLUSION OF IMPLIED WARRANTIES, SO THE ABOVE EXCLUSION MAY NOT APPLY TO LICENSEE.

9. **LIMITATION OF LIABILITY.** PEARSON SHALL NOT BE LIABLE TO LICENSEE FOR ANY SPECIAL, EXEMPLARY, INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES; OR LOST PROFITS, LOST FUNDING, LOST SAVINGS, OR LOST OR DAMAGED DATA; OR FOR CLAIMS OF A THIRD PARTY; ARISING OUT OF THESE POLICIES OR PEARSON'S PROVISION OF SUPPORT SERVICES OR OTHER PROFESSIONAL SERVICES HEREUNDER, EVEN IF PEARSON HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES OR THEY ARE FORESEEABLE. IN ANY EVENT, IN RESPECT OF ANY CLAIM, DEMAND OR ACTION ARISING OUT OF THESE POLICIES, LICENSEE SHALL BE LIMITED TO RECEIVING ACTUAL AND DIRECT DAMAGES IN A MAXIMUM AGGREGATE AMOUNT EQUAL TO THE CHARGES PAID BY LICENSEE TO PEARSON HEREUNDER FOR THE APPLICABLE SUPPORT SERVICES OR OTHER PROFESSIONAL SERVICES ON WHICH THE CLAIM IS BASED (AND, IN THE CASE OF SUPPORT SERVICES, IN NO EVENT WILL THE LIABILITY OF PEARSON EXCEED THE TOTAL AMOUNT OF MONEY PAID BY LICENSEE TO PEARSON DURING THE IMMEDIATELY PRECEDING TWELVE (12) MONTH PERIOD WITH RESPECT TO THE PARTICULAR SUPPORT SERVICES ON WHICH THE CLAIM IS BASED.)

RIDER G  
IDENTIFICATION OF COUNTRY  
IN WHICH CONTRACTED WORK WILL BE PERFORMED

**Please identify the country in which the services purchased through this contract will be performed:**



**United States. Please identify state: ME**



**Other. Please identify country: \_\_\_\_\_**

***Notification of Changes to the Information***

The Provider agrees to notify the Division of Purchases of any changes to the information provided above.